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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,773	10/30/2000	Tara Lynn Alvarez	2-4-3	7026
46290	7590	11/14/2005	EXAMINER	
		WILLIAMS, MORGAN & AMERSON/LUCENT	SHAH, CHIRAG G	
		10333 RICHMOND, SUITE 1100		
		HOUSTON, TX 77042	ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/699,773	ALVAREZ ET AL.
	Examiner	Art Unit
	Chirag G. Shah	2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3 and 12-15 is/are rejected.
- 7) Claim(s) 4-11 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1 and 13 objected to because of the following informalities: In claims 1 and 13, for the words DSI and NDSI, provide the meaning of the acronyms in parenthesis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 12 rejected under 35 U.S.C. 102(e) as being anticipated by Gurusami et al. (U.S. Patent No. 6,031,846), hereinafter referred as Gurusami.

Regarding claim 1, Gurusami discloses a method for transmitting DSI (Delay Sensitive Information) over a communication link of a communication network [each receiver transmits packets of telephony-voice communication over a link to each transmitter after applying a delay factor for each transmitter, col. 7, lines 57 to col. 8, lines 5 and see fig. 10] the method comprising the steps of:

transmitting an initial DSI after applying a delay to the initial DSI [each receiver transmits packets of telephony-voice communication to each transmitter after

**applying a delay factor for each transmitter, col. 7, lines 57 to col. 8, lines 5 and see fig. 10]** where

such delay is based on a determined periodicity of received DSI [the receiver first measures a packet arrival time of each packet from each transmitter and determines a delay factor for each transmitter, each of the transmitter delay factors being dependent upon the packet arrival time from the corresponding transmitter, see col. 7, lines 40-60 and fig. 10; Note: periodicity is the consecutive packets being received by the receiver with respective arrival times from which the receiver determines the delay factor].

Regarding claim 12, Gurusami further discloses the steps of:

maintaining a list of transmission times for received initial DSI [**the receiver measures the packet arrival time for each transmitter, thus inherently maintains a list of times of received packets times, see col. 7, lines 50-55 and fig. 10**]; establishing a transmission time for each received initial DSI [**the receiver determines the delay factors being dependent upon the packet arrival time and communicates to each transmitter dependent upon the corresponding transmitter delay factor times, see col. 7, lines 58 to col. 8, lines 5**]; and updating the list when an initial DSI is received [**the list of packet arrival times are inherently updated and measured every time a packet (telephony) arrives at the receiver, col. 7, lines 40-60**].

#### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 3 and 13-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Gurusami et al. (U.S. Patent No. 6,031,846) in view of Ellis et al (U.S. Patent No. 5,4973,71).

Regarding claim 13, Regarding claim 1, Gurusami discloses a method for transmitting DSI (Delay Sensitive Information) over a communication link of a communication network [**each receiver transmits packets of telephony-voice communication over a link to each**

**transmitter after applying a delay factor for each transmitter, col. 7, lines 57 to col. 8, lines 5 and see fig. 10]** the method comprising the steps of:

**transmitting an initial DS1 after applying a delay to the initial DS1 [each receiver transmits packets of telephony-voice communication to each transmitter after applying a delay factor for each transmitter, col. 7, lines 57 to col. 8, lines 5 and see fig. 10] where**

**such delay is based on a determined periodicity of received DS1 [the receiver first measures a packet arrival time of each packet from each transmitter and determines a delay factor for each transmitter, each of the transmitter delay factors being dependent upon the packet arrival time from the corresponding transmitter, see col. 7, lines 40-60 and fig. 10; Note: periodicity is the consecutive packets being received by the receiver with respective arrival times from which the receiver determines the delay factor].**

Gurusami discloses in col. 6, lines 42-58 that transmission for each device is specified with twelve bytes of payload. Gurusami fails to explicitly disclose a defined length of NDSI (Non-delay sensitive information) being transmitted. Ellis et al teaches of an efficient packet transport system for mixed traffic in which a packet fragmentation protocol allows traffic of difference classes to occupy a single physical link. Ellis et al discloses in column 7, lines 54 to column 8, lines 40 that since packets within the broadband network are of fixed or variable length, the delay is based on a defined length such as 16Kbytes of low priority data (data-delay insensitive) being transmitted. Therefore, it would have been obvious to one of ordinary skills in the art to modify the teachings of Gurusami et al to include the delay based on defined length

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NDSI being transmitted as taught by Ellis et. al in order to accurately account for and alter non-sensitive traffic causing delay in a coexisting link thus efficiently transporting delay sensitive traffic with minimal switching and assembly delays.

Regarding claim 3, Gurusami discloses in col. 7, lines 40-45 of transmitting delay sensitive packets (telephony) and non-delay sensitive (data) packets over a communications link. Gurusami discloses in col. 6, lines 42-58 that transmission for each device is specified with twelve bytes of payload. Gurusami fails to explicitly disclose a defined length of NDSI (Non-delay sensitive information) being transmitted. Ellis et al teaches of an efficient packet transport system for mixed traffic in which a packet fragmentation protocol allows traffic of difference classes to occupy a single physical link. Ellis et al discloses in column 7, lines 54 to column 8, lines 40 that since packets within the broadband network are of fixed, or variable length, the delay is based on a defined length such as 16Kbytes of low priority data (data-delay insensitive) being transmitted. Therefore, it would have been obvious to one of ordinary skills in the art to modify the teachings of Gurusami et al to include the delay based on defined length NDSI being transmitted as taught by Ellis et. al in order to accurately account for and alter non-sensitive traffic causing delay in a coexisting link to efficiently transport delay sensitive traffic with minimal switching and assembly delays.

Regarding claim 14, Gurusami discloses in figure 1 of apparatus (NIU 15) configured as an IAD coupled to subscriber equipment (16 and 18) and to an access network 13 as claim.

Regarding claim 15, Gurusami discloses in figure 1 of an apparatus (NIU 15, fig. 1) configured as part of host equipment (such as computer 16, fig. 1) where such host equipment is coupled to an access network (telephone network, fig. 4) and to a packet based communication network (see fig. 4, data packet network).

***Allowable Subject Matter***

3. Claims 4-11 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments, see pages 5-6 of the Appeal Brief, filed 10/5/05, with respect to claims 1 and 3-15 have been fully considered and are persuasive. The rejection of 1 and 3-15 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Gurusami et al. (U.S. Patent No. 6,031,846).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G. Shah whose telephone number is 571-272-3144. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs  
November 2, 2005



Chirag Shah  
Patent Examiner, AU2664